

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YANKOV PREIS, individually and on behalf :
of all others similarly situated, :

Plaintiff, :

v. :

FIRSTSOURCE ADVANTAGE, LLC., :
Defendant. :

ORDER

21 CV 613 (VB)

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On January 22, 2021, defendant removed this case from Supreme Court, Rockland

County. (Doc. #1). On February 12, 2021, defendant moved to dismiss the complaint. (Doc. #7).

Accordingly, it is HEREBY ORDERED:

1. By no later than February 22, 2021, plaintiff must notify the Court by letter whether plaintiff (i) intends to file an amended complaint in response to the motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

If plaintiff elects not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiff a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendant's motion.

See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility"); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiff elects to file an amended complaint, plaintiff must file the amended complaint by no later than 14 days after notifying the Court of his intent to do so. Within 21 days of such amendment, defendant may either: (i) file an answer to the amended complaint; or (ii) file a

motion to dismiss the amended complaint; or (iii) notify the Court by letter that defendant is relying on the initially filed motion to dismiss.

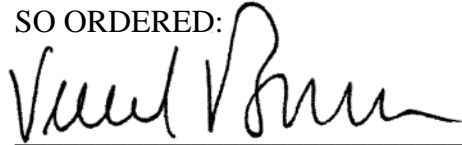
2. By close of business on February 17, 2021, defense counsel shall serve this Order on plaintiff's counsel by email and file proof of service of the same on the ECF docket.

3. By February 22, 2021, plaintiff's counsel shall file a notice of appearance on the docket.

4. Defendant has not filed on the docket the January 15, 2020, letter upon which plaintiff bases his claims, with neither defendant's notice of removal nor defendant's motion to dismiss. Accordingly, by February 22, 2021, defendant shall file on the docket the January 15 letter.

Dated: February 17, 2021
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge